

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHARLES KINNEY,
Plaintiff,

v.

STATE BAR OF CALIFORNIA, et al.,
Defendants.

No. C-13-1396 MMC

**ORDER GRANTING JUSTICE ROGER
BOREN AND JUDGE LUIS LAVIN'S
MOTION TO DISMISS; VACATING
HEARING**

Before the Court is the motion to dismiss, filed August 28, 2013, by California Court of Appeal Justice Roger W. Boren ("Justice Boren") and California Superior Court Judge Luis A. Lavin ("Judge Lavin"). Plaintiff Charles Kinney has filed opposition, to which Justice Boren and Judge Lavin have replied. Also before the Court is plaintiffs' response, filed September 20, 2013, to the Court's order of August 21, 2013, directing plaintiff to show cause why his claims against Justice Boren and Judge Lavin should not be dismissed. Having read and considered the above-referenced filings, the Court finds the matters suitable for determination on the parties' respective written submissions, VACATES the hearing scheduled for October 18, 2013, and rules as follows.

Plaintiff's claims for an award of damages against Justice Boren and Judge Lavin, which claims are based on judicial rulings, are, for the reasons stated in the motion to dismiss and in the Court's order to show cause, subject to dismissal, without leave to

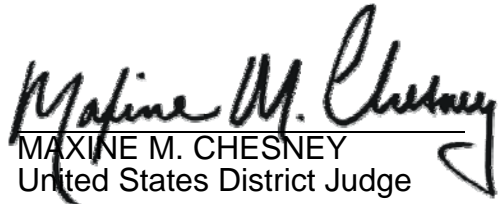
1 amend. See Stump v. Sparkman, 435 U.S. 349, 355-56, 364 (1978) (holding state court
2 judges sued for engaging in “judicial acts” are “immune from damages liability” irrespective
3 of whether ruling was “in error”); Ashelman v. Pope, 793 F.2d 1072, 1075 (9th Cir. 1986)
4 (holding judges “are absolutely immune from damage liability for acts performed in their
5 official capacities”).

6 Further, plaintiff’s claims for declaratory and injunctive relief, by which plaintiff seeks
7 relief from orders issued by Justice Boren and Judge Lavin, are, for the reasons stated in
8 the motion to dismiss and in the Court’s order to show cause, subject to dismissal, without
9 leave to amend. See Atlantic Coast Line Railroad Co. v. Brotherhood of Locomotive
10 Engineers, 398 U.S. 281, 296-97 (1970) (holding “lower federal courts possess no power
11 whatever to sit in direct review of state court decisions”; vacating district court order
12 enjoining enforcement of state court order).

13 Accordingly, Justice Boren and Judge Lavin’s motion to dismiss is hereby
14 GRANTED, and plaintiff’s claims against them are hereby DISMISSED, without leave to
15 amend.

16 **IT IS SO ORDERED.**

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18 Dated: September 27, 2013

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MAXINE M. CHESNEY
United States District Judge